

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to notification of railroad accidents and incidents

The Department of Transportation hereby amends Chapter 802, “Reporting of Railroad Accidents/Incidents,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 327C.37 and 327C.41.

Purpose and Summary

This rule making clarifies and expands the notification to the Department for certain railroad accidents and incidents. Timely notification of certain railroad accidents and incidents allows the Department’s Office of Rail Transportation to respond to immediate public safety risks as well as to identify emerging safety issues or trends that may need attention.

The following list further explains the amendments:

- The title of Chapter 802, “Reporting of Railroad Accidents/Incidents,” is changed to “Notification of Railroad Accidents/Incidents.” The word “reporting” is replaced with “notification” and the word “report” is replaced with “notice” within rule 761—802.2(327C). These changes were made within this chapter to be more consistent with language in Iowa Code section 327C.37 and to clarify that the Department needs to be notified of an accident or incident.
- Iowa Code section 327C.37 requires corporations operating railroads to immediately notify the Department of an injury or death. For clarity on what is meant by “immediately,” rule 761—802.2(327C) is amended to state that a railroad accident or incident must be reported to the Department within four hours of the accident or incident. Iowa Code section 327C.41 requires all common carriers subject to Iowa Code chapter 327D to notify the Department when the Department determines the notification is necessary and reasonable. The following are the notification changes that the Department determined are necessary and reasonable:
 - Written reports no longer need to be submitted for railroad employee injuries because employee safety is outside the realm of the Department’s responsibility. A Federal Railroad Administration form (FRA F 6180.55 — Railroad Injury and Illness Summary) that was used for this notification is stricken from subrule 802.1(2).
 - The criteria for notification of railroad accidents and incidents to the Department are expanded to include information beyond just injuries and fatalities. The added criteria include:
 - ◇ Information on derailments of ten or more cars or a derailment in which any number of cars or locomotives are not upright. This information may prompt the Department’s track inspectors to take a closer look at the safety of the track structure where these incidents occur, often before cleanup is completed.
 - ◇ Notification of derailment or other incident involving railroad passenger trains. This information may also trigger an investigation and is included due to the added risk to passengers in the event of an accident or incident and the associated media attention.
 - ◇ Any release or potential release of hazardous materials will trigger a railroad or local response to the hazard, and the Department should be made aware of this incident and response as a part of the Department’s safety oversight.

◇ Damage to any public or private transportation infrastructure not owned by the railroad. This criterion was added as the result of a past rail incident that damaged a highway bridge. The railroad had difficulty knowing whom to notify and how to notify the appropriate highway officials about the damage after normal business hours. Notifications are now made to the Department's Traffic Management Center, which is staffed year-round, 24 hours a day, including legal holidays. The Traffic Management Center has extensive contacts with highway officials and can facilitate any notifications of nonrailroad infrastructure damage as a result of a rail accident or incident.

The specific information included in the notification has also been clarified to provide a clearer picture of the accident or incident to Department personnel. This rule making will provide the Department with more complete and useful information to meet the Department's objective of protecting public safety and ensuring a safe rail infrastructure. The Office of Rail Transportation will have timely information on the nature and severity of an accident or incident and be able to act or prepare accordingly. Reporting rail accidents and incidents to the Department's Traffic Management Center allows personnel to determine whether there are primary highway impacts that should be included on www.511ia.org, the Department's notification to the public of highway incidents or delays, or if local highway officials should be notified. The notification also allows Department personnel to prepare for possible media inquiries that may occur as a result of an accident or incident. Depending upon the type or severity of an accident or incident, the notification will also allow Department personnel to notify other agencies or officials that may need to be aware of or respond to the accident or incident.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 25, 2018, as **ARC 3757C**. No public comments or requests for oral presentations were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Transportation Department on June 12, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 8, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend **761—Chapter 802**, title, as follows:

REPORTING NOTIFICATION OF RAILROAD ACCIDENTS/INCIDENTS

ITEM 2. Amend subrule 802.1(2) as follows:

802.1(2) Forms. This rule applies to the following Federal Railroad Administration forms:

FRA F 6180.54 — Rail Equipment Accident/Incident Report

FRA F 6180.55 — Railroad Injury and Illness Summary

FRA F 6180.57 — Rail-Highway Grade Crossing Accident/Incident Report

ITEM 3. Amend rule 761—802.2(327C) as follows:

761—802.2(327C) Immediate reporting Notification of personal injury or death railroad accidents/incidents.

802.2(1) Accidents or incidents requiring notification. Any accident/incident involving train movement which results in ~~personal injury requiring hospitalization or in death~~ any of the following shall be reported ~~immediately~~ within four hours of the accident/incident to the department::

- a. Fatality.
- b. Personal injury requiring hospitalization.
- c. Derailment of ten or more rail cars and locomotives.
- d. Derailment of any number of cars or locomotives when one or more are not upright.
- e. Derailment or other incident involving a railroad passenger train.
- f. Release or potential release of hazardous materials that presents a risk or potential risk to public safety including injury, fatality, evacuation or shelter-in-place of persons.
- g. Damage to public or private transportation infrastructure not owned by the involved railroad.

~~802.2(1)~~ 802.2(2) Content of immediate report notice. The ~~immediate report notice~~ of an accident/incident shall provide the date and time it occurred, the nearest city, the location as accurately as possible, the number of fatalities or injuries, the train(s) involved, the nature and cause insofar as known, the name of the individual filing the report, and the name of the railroad involved, at a minimum, the following information:

- a. Name of the railroad involved.
- b. Name and contact information of the individual calling to file the notice.
- c. Date and time the accident/incident occurred.
- d. Location of the accident/incident, described as accurately as possible, including the nearest city and the U.S. DOT crossing identification number or railroad milepost.
- e. Description of the accident/incident.
- f. Impact on motor vehicle travel, if known.
- g. Number of injuries and fatalities.
- h. Hazardous materials involved in the incident and actions taken in the event of a release.
- i. Number of rail cars derailed.

~~802.2(2)~~ 802.2(3) Method of immediate reporting notification. During normal business hours the ~~immediate report~~ The notice shall be filed with the office of rail transportation made to the department's traffic management center by telephone at (515)239-1140 (515)237-3300 (open year-round, 24 hours a day, including legal holidays). At other times, the report shall be filed with the office of motor carrier services of the motor vehicle division of the department by telephone at (515)243-2478.

This rule is intended to implement Iowa Code ~~section~~ sections 327C.37 and 327C.41.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/4/18.